

FILED BY *[Signature]* D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

05 JUL -6 PM 3: 27

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

MARILYN JOHNSON, et al.,

Plaintiffs,

vs.

CITY OF MEMPHIS,

Defendant.

Case Nos: 00-2608 D P

04-2017 D P

FLORENCE BILLINGSLEY, et al.,

Plaintiffs,

vs.

CITY OF MEMPHIS,

Defendant.

Case No.: 04-2013 D A

ORDER ESTABLISHING ORDER OF PROOF FOR TRIAL PURPOSES

The parties in this case appeared before the Court on July 1, 2005, for a scheduling conference. Among other matters, the parties argued regarding the order of proof and acknowledged certain burden shifting standards inherent in the trial. It appears that the Court has ruled on a number of issues in summary judgment orders which may shift the burden of persuasion or the burden of production in certain instances.

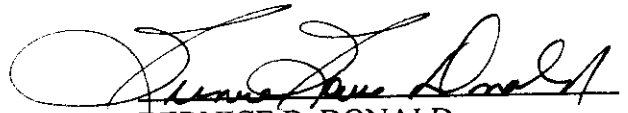
Having considered the case matter as a whole, and considering that this is a non-jury trial, the Court hereby orders that the plaintiffs will present their proof first, followed by a presentation

This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 7/6/05

[Handwritten signature]
83

of the defendant's proof, except that on the matter of expert proof, the plaintiffs may present its rebuttal expert proof after the defendant has presented its case, including its expert witnesses. Thus, the order of proof will proceed as a traditional trial with the plaintiff presenting its case in chief first, followed by the defendant's presentation of its case in chief, followed by the plaintiff's rebuttal proof. The Court will sort out and address the shifting burdens as it prepares its merits decision.

IT IS SO ORDERED 6th day of July, 2005.


BERNICE B. DONALD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 83 in case 2:04-CV-02013 was distributed by fax, mail, or direct printing on July 6, 2005 to the parties listed.

Sharon Harless Loy
LAW OFFICE OF RICKY E. WILKINS
119 S. Main St.
Ste. 700
Memphis, TN 38103

Aaron R. Parker
LEITNER WILLIAMS DOOLEY & NAPOLITAN-Memphis
254 Court Ave.
Second Floor
Memphis, TN 38103

Ricky E. Wilkins
LAW OFFICE OF RICKY E. WILKINS
119 S. Main St.
Ste. 700
Memphis, TN 38103

David M. Sullivan
LAW OFFICES OF DAVID M. SULLIVAN
3251 Poplar Ave.
Ste. 130
Memphis, TN 38111

Honorable Bernice Donald
US DISTRICT COURT